

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

TYCO INTERNATIONAL LTD. and
TYCO INTERNATIONAL (US) INC.,

Plaintiffs,

v.

MARK H. SWARTZ,

Defendant.

Civil Action No. 03-cv-2247 (TPG)

**LIST OF TRANSCRIPT DESIGNATIONS OF PLAINTIFFS
TYCO INTERNATIONAL LTD. AND TYCO INTERNATIONAL (US) INC.
AND OBJECTIONS OF DEFENDANT MARK H. SWARTZ**

Plaintiffs Tyco International Ltd. and Tyco International (US) Inc. (collectively “Tyco”) list herein the transcript designations they may offer as part of their case-in-chief (and not solely for impeachment purposes). Tyco reserves the right to modify or supplement this list, as appropriate, including, without limitation, in response to future rulings by the Court and/or evidence offered or presented by Defendant Mark H. Swartz (“Swartz”).

Boies, David – Trial Testimony 3/1/04

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|-----------------------------------|---|---|---|
| 12798:8 – 12800:15 12818:21 – 12819:17 12820:6 – 12822:10 12873:2 – 12875:1 12876:19 – 12877:3 | | 12875:2 – 12876:1 | | |

Boies, David – Trial Testimony 4/7/05 and 4/11/05

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|--|---|---|---|
| 10174:3 – 10174:14 10174:24 – 10174:25 10175:2 – 10175:7 10180:9 – 10180:25 10181:2 – 10181:25 10182:6 – 10182:14 10182:16 10182:19 – 10182:25 10183:2 – 10183:12 10184:2 – 10184:25 10185:2 – 10185:5 10185:10 – 10185:25 10186:2 – 10186:25 10187:2 – 10187:25 10188:2 – 10188:21 10189:8 – 10189:18 10189:24 – 10189:25 | 402; 403: 10180:9 – 10180:18 10181:21 – 10182:22 10243:17 – 10243:23 10244:3 – 10244:8 402; 403; Non-Responsive: 10243:6 – 10243:10 802: 10211:6 – 10211:13 10212:2 – 10212:20 | 10248:8 – 10250:7 | | 10250:8 – 10250:10 |

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|---|----------------------------|--------------------------------------|--|--|
| 10190:2 – 10190:5 10190:13 – 10190:17 10190:24 – 10190:25 10191:2 – 10191:25 10192:2 – 10192:11 10192:17 – 10192:25 10193:2 – 10193:25 10194:2 – 10194:24 10197:20 – 10197:25 10198:2 10198:25 10199:2 – 10199:19 10200:22 – 10200:25 10201:2 – 10201:25 10202:2 – 10202:18 10203:2 – 10203:25 10204:2 – 10204:9 10205:3 – 10205:21 10207:7 – 10207:10 10207:14 10207:21 – 10207:25 10208:2 – 10208:25 10209:2 – 10209:5 10209:10 – 10209:25 10210:2 – 10210:13 10211:6 – 10211:13 10212:2 – 10212:20 10213:21 – 10213:25 10214:2 – 10214:25 10215:2 – 10215:24 10217:23 – 10217:25 10218:2 – 10218:25 | | | | |

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|----------------------------|--------------------------------------|--|--|
| 10219:2 – 10219:25 10220:2 – 10220:4 10221:2 – 10221:25 10222:2 – 10222:21 10223:7 – 10223:25 10224:2 – 10224:25 10225:2 10225:6 – 10225:25 10226:2 – 10226:23 10227:2 10227:4 10227:7 – 10227:25 10228:2 – 10228:19 10230:23 – 10230:25 10231:2 – 10231:25 10232:2 – 10232:12 10232:18 – 10232:19 10232:21 – 10232:25 10233:2 – 10233:15 10234:4 – 10234:14 10235:4 – 10235:25 10236:2 – 10236:25 10237:2 – 10237:25 10238:2 – 10238:25 10239:2 – 10239:25 10240:2 – 10240:25 10241:2 – 10241:5 10242:24 – 10242:25 10243:2 – 10243:13 10243:17 – 10243:23 10244:3 – 10244:8 10244:15 – 10244:25 | | | | |

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|----------------------------|--------------------------------------|--|--|
| 10245:5 – 10245:8 10245:13 – 10245:25 10246:2 – 10246:11 10247:2 – 10247:25 10248:2 – 10248:7 10511:9 – 10511:25 10512:2 – 10512:25 10513:2 – 10513:25 10514:2 – 10514:5 | | | | |

Boies, David – Deposition Testimony 11/13/07

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|--|--------------------------------------|--|--|
| 9:6 – 9:12 12:17 – 12:25 13:2 – 13:4 13:22 – 13:25 14:2 – 14:24 143:9 – 143:25 144:2 – 4 145:10 – 145:25 146:2 – 146:25 147:2 – 147:12 147:15 – 147:25 148:2 – 148:8 160:11 – 160:25 161:2 – 161:25 162:2 – 162:25 | 602; Non-Responsive; Personal Knowledge: 192:16 – 192:21 | 391:25 – 392:10 | | |

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|----------------------------|--------------------------------------|--|--|
| 163:2 – 163:25 164:2 – 164:25 165:2 – 165:18 165:20 – 165:25 166:2 – 166:25 167:2 – 167:16 170:22 – 170:25 171:2 – 171:25 172:2 – 172:25 173:2 – 173:25 174:2 – 174:10 174:18 – 174:25 175:2 – 175:25 176:2 – 176:25 177:2 – 177:16 178:23 – 178:25 179:2 – 179:25 180:2 – 180:25 181:2 – 181:19 182:3 – 182:25 183:2 – 183:25 184:2 – 184:23 185:2 – 185:10 187:16 – 187:25 188:2 – 188:25 189:2 – 189:8 191:25 192:2 – 192:21 391:12 – 391:24 393:21 – 393:25 394:2 – 394:11 | | | | |

Fort, John – Trial Testimony 10/9/03

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|-----------------------------------|---|---|---|
| 444:17 – 444:25 449:11 – 449:17 450:15 – 450:22 564:23 – 565:12 567:1 – 567:8 567:17 – 568:24 570:11 – 570:19 577:19 – 578:14 | 402; 802; 577:19 – 578:14 | 569:6 – 569:17 | | |

Fort, John – Trial Testimony 1/31/05

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|---|--|---|---|---|
| 1731:24 – 1732:2 1732:16 – 1733:14 1734:17 – 1735:21 1853:24 – 1854:20 1857:3 – 1858:25 1860:2 – 1860:15 1865:19 – 1866:7 1867:10 – 1868:3 1868:9 – 1868:20 1868:25 – 1869:2 1879:14 – 1880:7 1880:22 – 1882:2 1882:7 – 1884:7 1885:1 – 1885:4 | 402; 802; Stricken by Court: 1868:19 – 1868:20 1881:18 – 1885:4 | 1891:5 – 1894:8 | 402: 403 1894:5 – 1894:8 | |

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|---|----------------------------|--------------------------------------|--|--|
| 1890:2 – 1890:14 1893:9 – 1894:4 1894:13 – 1900:2 1900:5 – 1903:17 1903:21 – 1904:23 2303:10 – 2303:18 2303:23 – 2304:5 | | | | |

Fort, John – Deposition Testimony 3/11/08 and 3/13/08

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|----------------------------|--------------------------------------|--|--|
| 10:23 – 10:25 (beginning at "At") 11:2 – 11:5 15:16 – 15:22 164:11 – 164:16 164:18 168:9 – 168:25 169:2 – 169:4 170:12 – 170:16 171:4 – 171:25 172:2 – 172:17 174:9 – 174:14 178:7 – 178:24 190:25 191:2 – 191:24 192:2 – 192:5 192:19 – 192:21 | | | | |

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|----------------------------|--------------------------------------|--|--|
| 192:23 – 192:25 193:2 195:5 – 195:17 245:8 – 245:15 251:3 – 251:25 252:2 – 252:25 253:2 – 253:25 254:2 – 254:7 981:16 – 981:25 982:2 – 982:25 983:2 – 983:23 984:3 – 984:14 | | | | |

Foss, Stephen – Trial Testimony 2/28/05

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|---|----------------------------|---------------------------------------|--|--|
| 5007:23 – 5008:3 5016:6 – 5016:23 5017:6 – 5017:9 5091:25 – 5093:5 5096:13 – 5097:22 5098:4 – 5098:11 5098:25 – 5099:10 5100:3 – 5100:14 5101:2 – 5101:10 5107:3 – 5112:12 | | 5097:23 – 5097:25 5101:2 – 5101:10 | | |

Foss, Stephen – Deposition Testimony 5/9/07 – 5/11/07

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|---|-----------------------------------|---|---|---|
| 10:21 – 10:25 218:6 – 219:4 219:7 – 219:23 221:18 – 222:8 550:11 – 551:25 590:9 – 590:22 591:12 – 591:15 592:1 – 592:11 611:20 – 612:19 615:15 – 616:15 620:11 – 620:24 621:1 – 621:24 | | | | |

Lane, Wendy – Deposition Testimony 8/30/07 – 8/31/07

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|--|---|---|---|
| 30:15 – 30:17 30:21 – 30:22 49:22 – 49:24 254:14 – 256:1 260:1 – 260:8 260:19 – 260:20 260:22 – 264:7 265:9 – 265:19 266:21 – 267:17 270:23 – 271:7 | 402: 650:13 – 650:17 650:22 – 651:10 | 625:24 – 626:4 | | |

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|--|----------------------------|--------------------------------------|--|--|
| 279:25 – 281:9 303:11 – 303:25 304:3 – 304:16 623:13 (start at “At”) – 625:23 626:12 (start at “Were”) – 626:23 627:15 – 628:14 650:13 – 650:17 650:22 – 651:10 | | | | |

Pasman, James –Trial Testimony 3/21/05

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|---|----------------------------|--------------------------------------|--|--|
| 7541:11 – 7541:13 7592:18 – 7592:25 7593:2 – 7593:8 7594:20 – 7594:25 7595:2 – 7595:11 7602:15 – 7602:25 7603:2 – 7603:25 7604:2 – 7604:24 | | | | |

Pasman, James – Deposition Testimony 8/31/07

| <u>Tyco's Designations</u> | <u>Swartz's Objections</u> | <u>Swartz's Counter Designations</u> | <u>Tyco's Objections to Counter Designations</u> | <u>Tyco's Counter/Counter Designations</u> |
|-------------------------------------|-----------------------------------|---|---|---|
| 1047:3 – 1047:7 1047:9 – 1047:14 | | | | |

Dated: October 5, 2012

Respectively submitted,

TYCO INTERNATIONAL LTD. and TYCO
INTERNATIONAL (US) INC.

/s/ Mark L. Levine

Fred H. Bartlit, Jr.*

BARTLIT BECK HERMAN PALENCHAR & SCOTT LLP

1899 Wynkoop Street, 8th Floor

Denver, CO 80202

Telephone: (303) 592-3100

Facsimile: (303) 592-3140

fred.bartlit@bartlit-beck.com

Mark L. Levine*

BARTLIT BECK HERMAN PALENCHAR & SCOTT LLP

54 W. Hubbard Street, Suite 300

Chicago, IL 60654

Telephone: (312) 494-4400

Facsimile: (312) 494-4440

mark.levine@bartlit-beck.com

Marshall Beil

MCGUIREWOODS LLP

1345 Avenue of the Americas

New York, NY 10105

Telephone: (212) 548-2100

Facsimile: (212) 548-2150

mbeil@mcguirewoods.com

Charles Wm. McIntyre*

MCGUIREWOODS LLP

2001 K Street, N.W., Suite 400

Washington, DC 20006

Telephone: (202) 857-1700

Facsimile: (202) 857-1737

cmcintyre@mcguirewoods.com

*Admitted pro hac vice

*Counsel for Plaintiffs Tyco International Ltd. and
Tyco International (US, Inc.*